

AMENDED IN SENATE JUNE 24, 1996
AMENDED IN ASSEMBLY MAY 20, 1996
AMENDED IN ASSEMBLY APRIL 29, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 3244

Introduced by Assembly Member Hawkins

February 23, 1996

~~An act relating to~~ *An act to amend Section 1954.53 of the Civil Code, relating to real property.*

LEGISLATIVE COUNSEL'S DIGEST

AB 3244, as amended, Hawkins. Real property: rent control.

Existing law, known as the Costa-Hawkins Rental Housing Act, provides that, where a residential rent control ordinance applies, an owner of residential real property may establish the initial rental rate for a dwelling unit, except where specified conditions exist. It also permits the owner to increase the rent by any amount allowed by a specified provision of law where the rental agreement prohibits subletting or assignment without the owner's consent and the original occupants no longer permanently reside at the dwelling or unit. This authorization to increase the rent does not apply where partial changes in occupancy of a dwelling or unit are made with the consent of the owner, as specified.

This bill would delete the provisions permitting the owner to increase the rent under the above circumstances, and

would instead permit the owner to increase the rent by any amount allowed by a specified provision of law to a lawful sublessee or assignee who did not reside at the dwelling or unit prior to January 1, 1996, if the original occupants no longer reside at the dwelling or unit. This authorization would not apply to partial changes in occupancy made with the consent of the owner, as specified, or to a lawful sublessee or assignee who resided at the dwelling or unit prior to January 1, 1996.

This bill would impose new duties on local agencies that administer existing ordinances that set maximum rents for the hiring of residential real property by requiring local agencies to apply different standards in administrative proceedings, and would thereby impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

~~Under existing law, various local governmental entities within the state have enacted ordinances or other measures that establish maximum rents for the hiring of real property for residential use. Existing law, the Costa-Hawkins Rental Housing Act provides that, notwithstanding any other provision of existing law, an owner of residential real property may establish the initial rental rate for a dwelling or unit, except under specified conditions. The act provides that an owner may increase the rent by any amount allowed by the act to a sublessee or assignee where the original occupant or occupants who took possession pursuant to the rental agreement with the owner no longer permanently reside there and the rental agreement prohibits subletting or~~

~~assignment or prohibits subletting or assignment without the owner's consent.~~

~~This bill would make a legislative finding that this latter provision allows increases in rental rates to a sublessee or assignee if there is a rental agreement that prohibits subletting or assignment or prohibits subletting or assignment without the owner's consent.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. The Legislature finds and declares that~~
2 ~~subdivision (d) of Section 1954.53 of the Civil Code allows~~
3 ~~increases in rental rates to a sublessee or assignee if there~~
4 ~~is a rental agreement that prohibits subletting or~~
5 ~~assignment or prohibits subletting or assignment without~~
6 ~~the owner's consent.~~

7 ~~SECTION 1. Section 1954.53 of the Civil Code is~~
8 ~~amended to read:~~

9 1954.53. (a) Notwithstanding any other provision of
10 law, an owner of residential real property may establish
11 the initial rental rate for a dwelling or unit, except where
12 any of the following applies:

13 (1) The previous tenancy has been terminated by the
14 owner by notice pursuant to Section 1946 or has been
15 terminated upon a change in the terms of the tenancy
16 noticed pursuant to Section 827, except a change
17 permitted by law in the amount of rent or fees.

18 (2) The owner has otherwise agreed by contract with
19 a public entity in consideration for a direct financial
20 contribution or any other forms of assistance specified in
21 Chapter 4.3 (commencing with Section 65915) of
22 Division 1 of Title 7 of the Government Code.

23 (3) The initial rental rate for a dwelling or unit whose
24 initial rental rate is controlled by an ordinance or charter
25 provision in effect on January 1, 1995, shall not until
26 January 1, 1999, exceed the amount calculated pursuant
27 to subdivision (c).

1 (b) Subdivision (a) applies to, and includes, renewal of
2 the initial hiring by the same tenant, lessee, authorized
3 subtenant, or authorized sublessee for the entire period
4 of his or her occupancy at the rental rate established for
5 the initial hiring.

6 (c) The rental rate of a dwelling or unit whose initial
7 rental rate is controlled by ordinance or charter provision
8 in effect on January 1, 1995, shall, until January 1, 1999, be
9 established in accordance with this subdivision. Where
10 the previous tenant has voluntarily vacated, abandoned,
11 or been evicted pursuant to paragraph (2) of Section 1161
12 of Code of Civil Procedure, an owner of residential real
13 property may, no more than twice, establish the initial
14 rental rate for a dwelling or unit in an amount that is no
15 greater than 15 percent more than the rental rate in
16 effect for the immediately preceding tenancy or in an
17 amount that is 70 percent of the prevailing market rent
18 for comparable units, whichever amount is greater.

19 The initial rental rate established pursuant to this
20 subdivision shall not be deemed to substitute for or
21 replace increases in rental rates otherwise authorized
22 pursuant to law.

23 (d) Nothing in this section or any other provision of
24 law shall be construed to preclude express establishment
25 in a lease or rental agreement of the rental rates to be
26 applicable in the event the rental unit subject thereto is
27 sublet, and nothing in this section shall be construed to
28 impair the obligations of contracts entered into prior to
29 January 1, 1996.

30 ~~An owner may increase the rent by any amount~~
31 ~~allowed by this section to a sublessee or assignee where~~
32 ~~there is a rental agreement prohibiting subletting or~~
33 ~~assignment or which prohibits subletting or assignment~~
34 ~~without the owner's consent and the original occupant or~~
35 ~~occupants who took possession pursuant to the rental~~
36 ~~agreement with the owner, no longer permanently reside~~
37 ~~there.~~

38 ~~Where one or more of the occupants of the premises~~
39 ~~pursuant to the agreement with the owner provided for~~
40 ~~above remains an occupant in lawful possession of the~~

~~dwelling or unit, this subdivision shall not apply to partial changes in occupancy of a dwelling or unit made with the consent of the owner. Nothing contained in this section shall establish or create any obligation of an owner to permit or consent to a sublease or assignment.~~

Where the original occupant or occupants who took possession of the dwelling or unit pursuant to the rental agreement with the owner no longer permanently reside there, an owner may increase the rent by any amount allowed by this section to a lawful sublessee or assignee who did not reside at the dwelling or unit prior to January 1, 1996.

This subdivision shall not apply to partial changes in occupancy of a dwelling or unit where one or more of the occupants of the premises, pursuant to the agreement with the owner provided for above, remains an occupant in lawful possession of the dwelling or unit, or where a lawful sublessee or assignee who resided at the dwelling or unit prior to January 1, 1996, remains in possession of the dwelling or unit. Nothing contained in this section shall be construed to enlarge or diminish an owner's right to withhold consent to a sublease or assignment.

Acceptance of rent by the owner shall not operate as a waiver or otherwise prevent enforcement of a covenant prohibiting sublease or assignment or as a waiver of an owner's rights to establish the initial rental rate unless the owner has received written notice from the tenant that is party to the agreement and thereafter accepted rent.

(e) Nothing in this section shall be construed to affect any authority of a public entity that may otherwise exist to regulate or monitor the grounds for eviction.

(f) This section shall not apply to any dwelling or unit which contains serious health, safety, fire, or building code violations, excluding those caused by disasters, for which a citation has been issued by the appropriate governmental agency and which has remained unabated for six months or longer preceding the vacancy.

SEC. 2. *No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title*

1 2 of the Government Code for costs mandated by the
2 state pursuant to this act. It is recognized, however, that
3 a local agency or school district may pursue any remedies
4 to obtain reimbursement available to it under Part 7
5 (commencing with Section 17500) and any other
6 provisions of law.

7 Notwithstanding Section 17580 of the Government
8 Code, unless otherwise specified, the provisions of this act
9 shall become operative on the same date that the act
10 takes effect pursuant to the California Constitution.

